

MEMORANDUM

HPSC
Agenda Item No:
2(E)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: March 13, 2008

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance relating to
maintenance of traffic
services in construction
of public works

The accompanying ordinance was prepared and placed on the agenda at the request of
Commissioner Joe A. Martinez.



R. A. Cuevas, Jr.
County Attorney

RAC/bw

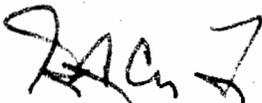


MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: January 22, 2008

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 4(D)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation.
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(D)
1-22-08

ORDINANCE NO. _____

ORDINANCE REQUIRING CERTIFIED LAW ENFORCEMENT OFFICERS TO PROVIDE MAINTENANCE OF TRAFFIC SERVICES IN CONSTRUCTION OF PUBLIC WORKS; PROVIDING FOR PERMITTING, INSPECTION AND ENFORCEMENT; PROVIDING FOR WAIVERS BY THE DIRECTOR OF PUBLIC WORKS IN ACCORDANCE WITH UNIFORM CRITERIA TO BE SET FORTH IN AN IMPLEMENTING ORDER; AMENDING SECTION 2-103.1; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS
OF MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Article XIV of the Code of Miami-Dade County is hereby amended by the addition of new subsections 2-103(c) and (d) to read as follows in its entirety:¹

ARTICLE XIV.

PUBLIC WORKS DEPARTMENT

* * *

Sec. 2-103.1. Construction of public utilities or works in public rights-of-way; construction of paving and drainage on private property-Permit required; effect of installation of County facility; exemption.

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

(a) It shall be unlawful for any person, corporation, partnership, association or other legal entity to construct utilities or other public works, except mailboxes in road and street right-of-way and easements in the unincorporated area of this County; and in rights-of-way of roads and streets located within municipalities that are maintained by Miami-Dade County, without first having obtained a permit from the Public Works Department. All said construction work in said right-of-way shall conform to uniform standards established by the official manual of public works construction. It shall also be unlawful for any person, corporation, partnership, association or other legal entity to construct paving or drainage on private property for areas used for vehicle driveways or parking in the unincorporated area of this County, without first having obtained a permit from the Public Works Department.

If the Director of the Public Works Department determines that the permittee is not performing the construction in accordance with the conditions of the permit or the approved plans upon which the permit was issued or in conformance with the uniform standards established by the official manual of public works construction, he may order suspension of the permit or the stopping of work until such time as the permittee has complied with the permit, plans or standards. In such case, the permittee shall take all necessary precautions to leave the work area in a safe and secure condition.

The Director of the Public Works Department may withhold the issuance of public works permits to a contractor if that contractor has previously been issued a citation regarding work that requires a public works permit as listed in Chapter 8CC of the Code of Miami-Dade County, and the citation is still outstanding forty-five (45) days after the date the citation was issued.

In the event of any future widening, repairs, installation, construction, or reconstruction, by or for Miami-Dade County, of any road, bridge, canal, culvert, traffic signal, streetlight, water distribution system, sewage collection system, storm drainage system, or any other County facility within the public right-of-way in which the permittee or owner has constructed any utility, said permittee or owner shall move or remove such utility as may be required for the public convenience as and whenever specified by the

Director of the Public Works Department and at his own expense.

Permits for the installation of liquefied petroleum gas in easements will be issued by the Miami-Dade County Fire Safety Bureau rather than the Public Works Department.

The term "right-of-way" or "rights-of-way" shall be construed throughout this article to include, but not be limited to, all proposed dedications of public rights-of-way set forth on official grading and drainage plans required to accompany approved and valid tentative plats, as well as all existing or dedicated rights-of-way.

Provided, however, the United States, federal agencies and their contractors, in the execution of federal projects authorized by Congress, are exempted from the provisions of Sections 2-103.1 through 2-103.7 and 2-103.10 through 2-103.13.

(b) Whenever any person, corporation, partnership, association, County Department or other legal entity performs any construction or public work within an existing right-of-way located within unincorporated Miami-Dade County, or in right-of-ways of roads or streets located within municipalities that are maintained by the County, the right-of-way, including sidewalks, curbs and gutters, landscaping and must be restored to their legally permissible preexisting condition, including any aesthetic enhancements thereto and any adjacent private property damaged during construction, within forty-five (45) days of completion of the construction or public work in that right of way or within forty-five (45) days of damage to the affected property or area, which ever occurs first. Prior to the time such construction work begins, the contractor, by posting the construction site, shall inform the local community of the requirement to restore the right-of-way as well as any affected adjacent private property and the fines that could be imposed for each failure to do so. All work to be done pursuant to this Section shall be performed in compliance with the Public Works Manual. Any entity failing to restore the right-of-way to its preexisting condition or better within the time permitted shall be subject to a civil fine of five hundred dollars (\$500.00) per violation per day until such time as the right-of-way is restored, as well as five hundred dollars (\$500.00) per day

for each affected adjacent private property until it is restored.

>>(c) It shall be unlawful for any person, corporation, partnership, association or other legal entity to perform any work which obstructs, closes, or causes to be obstructed or closed, any street, sidewalk, or any other part of the public right-of-way located within unincorporated Miami-Dade County, or in right of ways of roads or streets located within municipalities that are maintained by the County, without first having obtained a maintenance of traffic (MOT) permit approved by the Public Works Department. Said MOT permit shall be valid for 30 days and may be renewed in 30 day increments up to 90 days. Renewals after 90 days must be approved by the Public Works Director or his/her designee. Any work requiring a permit under this Section shall provide MOT measures when required by operation of law, the public works manual or specification, or by requirement of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction. When the MOT requires the use of safety personnel in the discretion of the Public Works Director, a certified Law Enforcement Officer who is a duly appointed employee of the Miami-Dade Police Department (MDPD) shall be used. In the event that a certified MDPD Law Enforcement Officer is not available for the project, then any certified Law Enforcement Officer with jurisdictional authority can be used. The Public Works Department shall enforce the provisions of this Section through the issuance of permits and inspections, the schedule of fees for which shall be established by separate administrative order. The Public Works Department shall, in addition but not in derogation of other rights and remedies available at law, issue stop work orders for work in violation of this provision. The Director of Public Works shall be authorized to waive the use of a certified Law Enforcement Officer when determined to be in the best interest of Miami-Dade County. The criteria for waiver shall be applied uniformly, shall be contained in an implementing order to be approved by the Board of County Commissioners, and may include hardship, costs and availability, all consistent with public safety.

(d) Any person, corporation, partnership, association or other legal entity required by the Director of Public Works Department to utilize a law enforcement

officer shall pay such officer pursuant to applicable provisions of law and/or implementing order.<<

* * *

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Rote

Prepared by:

HB/

Hugo Benitez

Sponsored by Commissioner Joe A. Martinez